

SENATE BILL NO. 491

INTRODUCED BY GALLUS, GROESBECK, LARSON, A. OLSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BENEFITS AND DEFINITIONS IN THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; ~~REVISING THE DEFINITION OF "COMPENSATION";~~ CHANGING HOW AVERAGE SALARIES ARE CALCULATED TO DETERMINE BENEFIT AMOUNTS; AMENDING SECTIONS 19-13-104, 19-13-704, 19-13-803, AND 19-13-902, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-13-104, MCA, is amended to read:

"19-13-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban firefighting services, or the entire county included in the county-municipal consolidation.

(2) "Compensation" means:

(a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for the member's services, ~~including payments for overtime,~~ before any pretax deductions allowed by state and federal law are made;

(b) for a part-paid firefighter employed by a city of the second class:

(i) 15% of the regular remuneration, ~~excluding including~~ EXCLUDING overtime, ~~but excluding~~ holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

(ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, ~~excluding including~~ EXCLUDING overtime, ~~but excluding~~ holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.

1 (c) Compensation for full-paid and part-paid firefighters does not include:

2 (i) ~~overtime~~, OVERTIME, holiday payments, shift differential payments, compensatory time payments, and
3 payments in lieu of sick leave; and

4 (ii) maintenance, allowances, and expenses.

5 (3) "Dependent child" means a child of a deceased member who is:

6 (a) unmarried and under 18 years of age; or

7 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution
8 as a full-time student in anticipation of receiving a certificate or degree.

9 (4) "Employer" means any city that is of the first or second class or that elects to join this retirement
10 system under 19-13-211 or, with respect to firefighters covered in the retirement system pursuant to
11 19-13-210(2), the department of military affairs established in 2-15-1201.

12 ~~(5) "Final average compensation" means the monthly compensation of a member averaged over the~~
13 ~~last 36 months of the member's active service or, in the event a member has not served at least 36 months, the~~
14 ~~total compensation earned divided by the number of months of service. Lump-sum payments for annual leave~~
15 ~~paid to the member upon termination of employment may be used to replace, on a month-for-month basis, the~~
16 ~~regular compensation for a month or months included in the calculation of final average compensation.~~

17 ~~(6)~~(5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

18 ~~(7)~~(6) "Full-paid firefighter" means a person appointed by an employer as a firefighter under the
19 standards provided in 7-33-4106.

20 (7) "Highest average compensation" means the monthly compensation of a member averaged over the
21 highest CONSECUTIVE 36 months of the member's active service or, in the event a member has not served at
22 least 36 CONSECUTIVE months, the total compensation earned divided by the number of months of service.
23 Lump-sum payments for annual leave paid to the member upon termination of employment may be used to
24 replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation
25 of highest average compensation.

26 (8) "Minimum retirement date" means the first day of the month coinciding with or immediately following,
27 if none coincides, the date on which a member ~~becomes~~ reaches both ~~age 50 years of age~~ or older and
28 completes 5 or more years of membership service.

29 (9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in
30 excess of \$300 a year for service as a firefighter.

(10) "Prior plan" means the fire department relief association plan of a city that elects to join the retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second class.

(11) "Retirement date" means the date on which the first payment of benefits is payable.

(12) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

(13) "Surviving spouse" means the spouse married to a member at the time of the member's death."

Section 2. Section 19-13-704, MCA, is amended to read:

"19-13-704. Amount of service retirement benefit. (1) Except as provided in subsection (2), a member who retires with at least 5 years of membership service must receive a service retirement benefit equal to 2.5% of the member's ~~final~~ highest average compensation for each year of service credit.

(2) A member hired before July 1, 1981, who does not elect to be covered under 19-13-1010 is entitled to the greater of:

(a) the benefit provided under subsection (1); or

(b) (i) if the member retires with less than 20 years of membership service, a benefit equal to 2% of the member's ~~final~~ highest monthly compensation for each year of service; or

(ii) if the member retires with 20 or more years of membership service, a benefit equal to 50% of the member's ~~final~~ highest monthly compensation plus 2% of the member's ~~final~~ highest monthly compensation for each year of service over 20 years.

(3) Upon a retired member's death, the benefit must be made to the surviving spouse. If there is no surviving spouse or if the surviving spouse dies and if the member leaves one or more dependent children, the children are entitled to receive the benefit as long as they remain dependent children as defined in 19-13-104."

Section 3. Section 19-13-803, MCA, is amended to read:

"19-13-803. Amount of disability retirement benefit. (1) A member who becomes disabled:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's ~~final~~ highest average compensation;

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's ~~final~~ highest average compensation for each year of service credit.

(2) Upon the death of a member receiving a disability retirement benefit under this section, the

member's surviving spouse or dependent child is eligible for benefits as provided in 19-13-104."

Section 4. Section 19-13-902, MCA, is amended to read:

"19-13-902. Survivorship benefit. (1) A member's surviving spouse, if there is one, must receive a survivorship benefit amount as provided in this section. If a member leaves no surviving spouse or upon the death of the surviving spouse, the member's surviving dependent children must collectively receive the same benefit that a surviving spouse would have received under this section. A child may receive a share of the benefit as long as the child is a dependent child, as defined in 19-13-104.

(2) (a) The survivorship benefit paid upon the death of an active member who has completed less than 20 years of membership service is one-half the ~~final~~ highest average compensation received by the member.

(b) The survivorship benefit paid upon the death of an active or inactive member who has completed over 20 years of membership service is the benefit amount to which the member was entitled on the date of death.

(3) Benefits provided under this section are subject to the benefit adjustments provided pursuant to part 10 of this chapter."

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2005.

NEW SECTION. **Section 6. Applicability.** [This act] applies to benefits calculated on or after [the effective date of this act].

- END -